

Appl. No. 10/630,146
Amendment dated October 3, 2006
Reply to Non-Final of July 3, 2006

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figures 2 and 3B. These sheets, which include Figures 2 and 3B, replace the original sheets. In Figures 2 and 3B the foreign language has been changed to English.

Attachment: Replacement Sheets

REMARKS

Drawings

Corrected drawings with English text are filed with this amendment.

Claim Rejections - § 112

Claim 41 was rejected as indefinite for depending upon itself. Claim 41 now depends from claim 40 as originally intended. No new matter has been added.

Double Patenting and Obviousness

Claims 25-66 were rejected for obviousness-type double patenting over commonly-owned U.S. 6,676,821 to Hempelmann (corresponding to DE 198 40 842, cited with translation) in view of U.S. 5,116,468 to Giersberg. Applicants respectfully traverse.

Hempelmann differs from the claimed process in at least two significant ways. First, the Hempelmann process sacrifices the anode to provide metal for forming the metal oxides. The metal for oxides formed in the claimed process comes from dissolved metal and not the anode. Second, Hempelmann does not teach shielding the cathode from halogens as claimed. Giersberg does teach the use of a membrane to separate the cathode and anode, but not to block halogens. Giersberg's process also uses the anode to furnish metal for the oxide formation. Thus even combined, the references fail to teach or suggest every element of the claimed process. For this reason, the obviousness-type double patenting rejection over Hempelmann in view of Giersberg should not be maintained.

Claims 25-66 were also rejected as obvious over Giersberg in view of Hempelmann. In addition to the distinctions drawn between these references in the foregoing argument relating to double patenting, Giersberg further differs from the invention in that its diaphragm should prevent the transfer of tin ions into the cathode space. Giersberg col. 2, lines 65-66. In the claimed process, dissolved metal ions travel freely to the cathode. One of skill would not have modified Giersberg to meet this element of the claims given the clear directive to avoid passage of tin to the cathode. For all these reasons, Giersberg in view of Hempelmann does not render the claims obvious.

CONCLUSION

In view of the amendments and remarks above, Applicants ask for reconsideration and allowance of all pending claims. Should any fees be due for entry and consideration of this Amendment that have not been accounted for, the Commissioner is authorized to charge them to Deposit Account No. 01-1250.

Respectfully submitted,

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Attachments

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